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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Steven Preston,

10 Plaintiff,

11 v.

12 Jingze Food LLC, et al.,

13 Defendants.
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No. CV-23-00755-PHX-KML

ORDER

15 On December 10, 2024, the court granted a request by defense counsel to withdraw.
16 (Doc. 51.) In doing so, the court ordered the two defendants that are limited liability
17 companies to retain new counsel and for defendant Jingze Xi to file a statement indicating
18 whether he planned to proceed through counsel or as a pro se party. That order required
19 new counsel appear and Jingze Xi file a statement within fourteen days. As of December
20 31, 2024, new counsel had not appeared on behalf of the LLCs and Jingze Xi had not filed
21 a statement.

22 On December 31, 2024, plaintiff Steven Preston filed a “Motion for Relief Due to
23 Defendants’ Failure to Prosecute.” (Doc. 52.) That motion pointed out defendants’ failure
24 to comply with the court’s December 10 order and requested the court dismiss the
25 counterclaims, strike the answer, and allow Preston “to proceed with seeking a default
26 judgment.” (Doc. 52 at 2.) On January 8, 2025, Jingze Xi filed a motion for extension of
27 time explaining the LLCs will retain counsel and Jingze Xi will likely represent himself.
28 (Doc. 53.) The motion requests until January 31, 2025, for new counsel to appear.

1 The court grants an extension until January 31, 2025, for the LLCs to retain counsel.
2 By that date, counsel must file a notice of appearance on behalf of the LLCs. If that notice
3 of appearance does not indicate counsel represents Jingze Xi, then Jingze Xi must file a
4 statement indicating he plans to represent himself. That statement is also due no later than
5 January 31, 2025. Based on this extension, the court denies Preston's request for relief
6 based on defendants' failing to participate. However, all defendants are warned that any
7 additional noncompliance with court orders may result in striking their answer. The
8 deadline for Jingze Xi to file a statement indicating he wished to defend these claims was
9 December 24, 2024, but he did not file a statement until January 8, 2025. In the future,
10 Jingze Xi must comply with all court-imposed deadlines.

11 If counsel does not appear on behalf of the LLCs and Jingze Xi does not file a
12 statement indicating he will represent himself on or before January 31, 2025, Preston shall
13 file a renewed motion to strike defendants' answer and for entry of default. Should Preston
14 do so, his motion must address the "five factors that a district court must consider before
15 dismissing a case or declaring a default." *Transamerica Life Ins. Co. v. Arutyunyan*, 93
16 F.4th 1136, 1146 (9th Cir. 2024) (quotation marks and citation omitted). The motion must
17 present factual and legal arguments regarding each factor, supported by evidence as Preston
18 deems appropriate.

19 Finally, there is a settlement conference set for January 14, 2025. Jingze Xi indicates
20 he plans to attend that conference. He is required to do so. Failure to attend will be treated
21 as noncompliance with a court order that will support an award of sanctions, including
22 possibly the striking of his answer and entry of default judgment.

23 Accordingly,

24 **IT IS ORDERED** the motion (Doc. 52) is **DENIED WITHOUT PREJUDICE**.

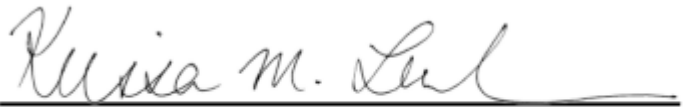
25 **IT IS FURTHER ORDERED** the Motion for Extension (Doc. 53) is **GRANTED**.

26 No later than **January 31, 2025**, counsel shall appear on behalf of the defendant LLCs. If
27 that notice of appearance indicates counsel does not represent Jingze Xi, no later than
28 **January 31, 2025**, Jingze Xi shall file a statement indicating he will represent himself.

1 **IT IS FURTHER ORDERED** Jingze Xi shall attend the settlement conference set
2 for **January 14, 2025**.

3 **IT IS FURTHER ORDERED** if no notice of appearance is filed and Jingze Xi
4 does not file a statement indicating he will represent himself, plaintiff shall file a motion
5 to strike the answer and for entry of default no later than **February 12, 2025**.

6 Dated this 13th day of January, 2025.

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10 **Honorable Krissa M. Lanham**
11 **United States District Judge**
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